

FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

7701-7900

FOODS

The cases reported herewith were instituted in the United States District Courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

WATSON B. MILLER, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., August 13, 1945.

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BEVERAGES AND BEVERAGE MATERIALS

7701. Misbranding of Effect-O beverage stabilizer. U. S. v. 19 Bottles of "Effect-O" Beverage Stabilizer. Tried to the court. Judgment for the government. Decree of condemnation and destruction. (F. D. C. No. 12371. Sample No. 79524-F.)

LABEL FILED: May 13, 1944, District of Columbia.

ALLEGED SHIPMENT: On or about March 24, 1944, by the Chandler Laboratories, from Philadelphia, Pa.

PRODUCT: 19 1-gallon bottles of Effect-O beverage stabilizer at Washington, D. C.

LABEL, IN PART: "Effect-O The Perfect Stabilizer For All Beverages."

VIOLATION CHARGED: Misbranding, Section 403 (a), the labeling of the article was misleading. The details of the misbranding appear in the findings of fact and conclusions of law reported herein.

DISPOSITION: March 22, 1945. The Chandler Laboratories, claimant, having filed an answer denying that the product was misbranded, and a jury having been waived, the court, after hearing the evidence, made the following findings of fact and conclusions of law:

PENE, District Judge:

FINDINGS OF FACT

"1. The above-described article (hereinafter referred to as Effect-O) was seized on May 13, 1944 in the possession of and on the premises of the Root Pop Bottling Co., Inc., 413 2nd Street, N. W., Washington, D. C., by process issued pursuant to a libel for condemnation filed in this Court by the United States of America.

"2. Thereafter, on July 20, 1944 the Chandler Laboratories appeared in the proceeding as claimants and owners and filed an Answer.

"3. Interstate shipment of Effect-O was admitted.

"4. The Effect-O under seizure was labeled (carton and bottle label) at the time of shipment and thereafter: 'Effect-O The Perfect Stabilizer For all Beverages Eliminates the use of Preservatives Use ½ oz. to each gallon of bottling syrup. Chandler Laboratories, Philadelphia, Pa.'

"5. Effect-O was used by the Root Pop Bottling Co., Inc., as a component of root beer.

"6. Effect-O contains about 14 grams (one-half ounce) of monochloroacetic acid in each 100 cubic centimeters (3½ ounces). In that proportion, there is sufficient monochloroacetic acid in each 100 cubic centimeters of Effect-O to kill a minimum of 92 kilograms of rats (L. D. 50 equals 76 milligrams per kilogram of body weight for rats). Man is more susceptible to poisons than animals such as the rat, guinea-pig, rabbit, or chick.

"7. Monochloroacetic acid is five times as poisonous as carbolic acid; more poisonous than arsenic trioxide; five times as poisonous as barium carbonate, a common rat poison and about one-half as poisonous as bichloride of mercury, or corrosive sublimate.

"8. The labeling on Effect-O did not reveal the material fact that it contained a poisonous substance.

CONCLUSIONS OF LAW

"1. This Court has jurisdiction over the parties and the subject matter of this proceeding under the provisions of the Federal Food, Drug, and Cosmetic Act (Title 21, U. S. Code, Sec. 301 et seq.).

"2. The article under seizure, Effect-O, is a food within the meaning of 21 U. S. C. 321 (f) (3).

"3. The article of food under seizure was introduced into interstate commerce within the meaning of 21 U. S. C. 334 (a).

"4. The article of food under seizure is misbranded within the meaning of 21 U. S. C. 343 (a) and 321 (n) in that its labeling is misleading in the particular that the statements, 'The Perfect Stabilizer for all beverages. Eliminates the use of preservatives. Use ½ oz. to each gallon of bottling syrup', appearing upon its carton and bottle label, create the impression that the article and its ingredients are wholesome and suitable for use as a component of all beverages used by man, and such labeling fails to reveal the material fact in the light of such representations that the article contains a poisonous and deleterious substance.

"5. The article under seizure must therefore be condemned under 21 U. S. C. 334 (a)."

Judgment of condemnation was entered on March 22, 1945, and the product was ordered destroyed.

7702. Adulteration and misbranding of fruit-flavored beverage sirups. U. S. v. 100 Cases of Nectar Syrup. Default decree of condemnation and destruction. (F. D. C. No. 13773. Sample No. 74040-F.)

LIBEL FILED: September 11, 1944, Eastern District of Washington.

ALLEGED SHIPMENT: On or about August 4, 1944, by the California Associated Products Co., Los Angeles, Calif.

PRODUCT: 100 cases, each containing 24 8-ounce bottles, of cherry-, orange-, lemon-, or grape-flavored beverage sirups at Walla Walla, Wash.

LABEL, IN PART: (Bottles) "Home Brand Nectar Syrup Cherry [or "Orange," "Lemon," or "Grape"] Flavor with Other Natural Flavors Just Add Cold Water Greene Products Company Los Angeles California."

VIOLATIONS CHARGED: Adulteration, Section 402 (b) (1), valuable constituents, concentrated cherry, orange, lemon, or grape juices, had been in whole